

| |
|--|
| USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>3-12-09</u> |
|--|

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

HENRY BENITEZ,

Plaintiff,

- against -

C. STRALEY, et al.,

Defendants.

ORDER

01 Civ. 0181 (CM) (RLE)

RONALD L. ELLIS, United States Magistrate Judge:

On February 20, 2009, pro se plaintiff Henry Benitez submitted a motion for sanctions. He alleges that Defendants failed to comply with this Court's September 2, 2008 discovery order, and seeks an order precluding Defendants from offering both oppositional evidence at trial, and evidence in response to any dispositive motion he might file, in relation to the discovery materials he claims were either not produced, or defectively produced. The discovery materials at issue relate to Benitez's claims 1) against Defendants Surber, Gunderman, and Ward for excessive use of force; 2) against Defendant Straley for retaliation; and 3) about the cause, nature, and extent of the physical injuries he sustained on May 29, 1998.

On February 26, 2009, Benitez filed a motion for partial summary judgment related to his due process claims stemming from three "Tier III" disciplinary hearings conducted in June and October 1998. Defendants have also indicated that they intend to file a dispositive motion.

IT IS THEREFORE ORDERED THAT:

(1) Defendants **SHALL** respond to Benitez's motion for sanctions no later than **Tuesday, March 17, 2009;**

(2) Defendants **SHALL** file any dispositive motions no later than **April 6, 2009;**

(3) The Parties **SHALL** file responses to the other Party's motion no later than **April 20, 2009;** and

(4) The Parties **SHALL** file replies, if any, no later than **April 27, 2009.**

SO ORDERED this 12th day of March 2009
New York, New York

A handwritten signature in black ink, appearing to read "Ronald L. Ellis", written over a horizontal line.

The Honorable Ronald L. Ellis
United States Magistrate Judge